

caseinoglycomacropeptide and treated liquid materials obtained by the process. Indeed, election of Group 1 (concerning the extraction glycomacropeptide or caseinoglycomacropeptide from sweet whey), would necessitate a search of subject matter of Group 2 (concerning the extraction glycomacropeptide or caseinoglycomacropeptide from proteins of substantially lactose-free sweet whey). Additionally, the election of Group 1 would necessitate a search of the subject matter Group 4 (concerning a treated liquid material obtained by the process of Group 1) and of Group 5 (concerning a treated liquid material obtained by the process of Group 2). For these reasons, the Examiner's distribution of the claims in separate groupings is not based upon any undue searching burden, because the subject matter of all groups is included in classes 426/41 and 424/535, which must be reviewed in order to determine whether the claims of Group 1 are patentable.

Applicants respectfully request that the Examiner withdraw the restriction requirement so that Groups 3 and 6 and species G3 are examined together. The claims in these groups all are drawn to a process for the extraction of glycomacropeptide or caseinoglycomacropeptide. Indeed, election of Group 3 (concerning the extraction glycomacropeptide or caseinoglycomacropeptide from lactic raw material is the product of proteolytic hydrolysis of a casein or caseinate obtained by acid precipitation of skimmed milk), would necessitate a search of subject matter of Group 6 (concerning a treated liquid material obtained by the process of Group 3). For this reason, the Examiner's distribution of the claims in separate groupings is not based upon any undue searching burden, because the subject matter of all groups is included in classes 426/41 and 424/535, which must be reviewed in order to determine whether the claims of Group 3 are patentable.

The M.P.E.P. § 803 states:

If the search and examination of an entire application can be made without serious burden, the examiner >must< examine it on the merits, even though it includes claims to distinct or independent inventions (emphasis added).

Thus, in view of M.P.E.P. § 803, all of the subject matter in Groups 1, 2, 4 and 5 and species G1 and G2 and Groups 3 and 6 should be examined together. Even if the subject matter of these groups are distinct inventions, it would not be a "serious burden" on the Examiner to

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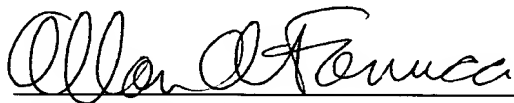
search these groups in this application. Indeed, as applicants have explained above, the burden of searching these groups together would be no greater than that for Group 1 alone.

In summary, applicants have demonstrated that the subject matter of the claims of Groups 1, 2, 4 and 5 and species G1 and G2 and Groups 4 and 6 should be examined in the same application. Applicants request, therefore, that the restriction requirement be withdrawn and that all of claims 1-22, be searched and examined together.

No fee is believed to be due for the submission of this response. Should any fees be required, please charge such fees to Pennie & Edmonds LLP Deposit Account No. 16-1150.

Respectfully submitted,

Date 5/16/00



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